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ORDINANCE NO. 20 08 - 063

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 26, ARTICLE II, KNOWN AS THE MUNICIPAL SERVICE TAXING UNIT (MSTU) SPECIAL ASSESSMENT ORDINANCE (ORDINANCE 94-11 AS AMENDED); AMENDING SECTION 26-17, CREATION AND PURPOSE; AMENDING SECTION 26-18, GOVERNING BODY OF MUNICIPAL SERVICE TAXING UNITS; AMENDING SECTION 26-19, POWERS; AMENDING SECTION 26-20, FUNDING; AMENDING SECTION 26-21, BUDGET ADOPTION; AMENDING SECTION 26-22, TRUST FUNDS; AMENDING SECTION 26-23, IMPROVEMENTS; AMENDING SECTION 26-24, SPECIAL ASSESSMENTS; AMENDING SECTION 26-29, PERCENTAGE OF COSTS, FURTHER PROCEDURES; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, pursuant to Florida Statutes, Section 125.01(1)(q), and (r), the Board of County Commissioners of Palm Beach County, Florida, is granted the power to establish, merge and abolish municipal service taxing units and is authorized to levy special assessments within such units; and

WHEREAS, The Board of County Commissioners of Palm Beach County, Florida has determined that it is in the best interest of the public to amend the Municipal Service Taxing Unit Special Assessment Ordinance to merge the original six (6) units into a single unit and to allow for assessments and collections of 100% of the cost of road improvements; and

WHEREAS, Palm Beach County, Florida is a charter County and has all the powers of local self government.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1 1. The following Sections of the MSTU Ordinance as codified in the Palm Beach
2 County Code Chapter 26, Article II, Division 1, are hereby amended as follows:

3 **Section 26-17. CREATION AND PURPOSE.**

4 Pursuant to the authority granted in Section 125.01(1)(q), and (r), Florida
5 Statutes, or, "Municipal Service Taxing Unit Nos. 1,2,3,4,5, and 6," respectively, and as
6 alternatively designated as "Municipal Service Taxing Units, A, B, C, D, E, and F,"
7 established by ordinance are hereby merged into one municipal service taxing unit by
8 this division. This municipal service taxing unit shall be known as MSTU 1 and may be
9 alternatively designated as MSTU A. The unit shall consist of a specific portion of the
10 county and shall be the unincorporated area of the county, excepting all municipalities, as
11 said municipalities now existing and may from time to time be changed in accordance
12 with law. However, in furtherance of the county's annexation incentive program with the
13 consent, by ordinance, of a municipality, any project initiated in unincorporated Palm
14 Beach County through the annexation incentive program shall be deemed to remain in
15 the unit after annexation until anticipated improvements are complete. The purpose of
16 the Municipal Service Taxing Unit 1 shall be to provide within the municipal service taxing
17 unit street and road improvements to facilitate the passage and control of vehicular traffic
18 and pedestrians; street lighting to promote safety and convenience of travel in, upon,
19 along, and across said streets by vehicular traffic and pedestrians; other improvements
20 and facilities described in Section 26-23 of this division; and other purposes incidental
21 hereto (hereinafter collectively referred to as "improvements" unless the text indicates
22 otherwise), pursuant to this division and in compliance with law.

23 **Section 26-18. GOVERNING BODY OF MUNICIPAL SERVICE TAXING UNIT.**

24 The Board of County Commissioners (hereinafter referred to as "BOARD"), shall
25 be the governing body of the municipal service taxing unit (hereinafter referred to as
26 "unit") created by this division. All references to the BOARD or unit herein shall be
27 deemed to include both, as appropriate.

28 **Section 26-19. POWERS.**

29 The unit shall have the power to levy ad valorem taxes; contract; borrow and
30 expend funds; issue bonds, certificates of indebtedness, revenue certificates, and other
31 obligations of indebtedness; and exercise other powers as granted by law. The unit is

1 authorized to enter into contracts with municipalities, counties, and other taxing units of
2 government for the purpose of providing the unit with any or all of the services the unit is
3 established to provide.

4 **Section 26-20. FUNDING.**

5 The unit created hereunder shall be funded through the levy of an ad valorem tax
6 which, together with all other ad valorem taxes levied for municipal services within the
7 unit, shall not exceed ten (10) mills against the assessed value of all lawfully taxable
8 property situated within the boundaries of each respective unit, including but not limited
9 to service charges, if any, special assessments, and any other income or sources of
10 funds attributable to the unit. Funds lawfully available from any source may be utilized to
11 pay for the improvements made pursuant to this division.

12 These improvements shall be subject to special assessments pursuant to the
13 provisions of this division. However, special assessments levied upon specially benefited
14 property within the units established by this division shall not be made for the payment of
15 regular electric utility service charges for electric current supplied to lighting
16 improvements or other improvements hereunder within the unit, unless capable of being
17 calculated for special assessment purposes.

18 **Section 26-21. BUDGET ADOPTION.**

19 Each year, the unit shall adopt an annual budget in accordance with Chapter 129,
20 Florida Statutes. The BOARD thereafter may cause such millage to be levied against all
21 lawfully taxable property within the unit as is sufficient to raise the budget. All funds so
22 raised shall be used solely for the expenses of the unit. Proper accounts and records
23 shall be kept at all times.

24 **Section 26-22. TRUST FUND.**

25 a) The six (6) trust funds established, one (1) for each unit for the purposes of
26 this division are hereby merged into one (1) trust fund. This fund shall be
27 known as the MSTU trust fund for MSTU 1. Except as otherwise provided
28 in Section 26-30.13 of this division, all special assessments and service
29 charges collected pursuant to this division for improvements hereunder
30 shall be deposited into the trust fund. The BOARD may levy ad valorem
31 taxes in the unit to the full extent permitted by law. These tax proceeds

1 shall be deposited into the trust fund. The funds on deposit in the trust
2 fund shall be used for no other purpose than as provided under the
3 provisions of this division.

4 b) Within the trust fund there shall be established two (2) separate component
5 trust funds: one for funds attributable to street lighting improvements, if
6 any; and one for funds attributable to road improvements described in
7 Section 26-23 within the unit. No component trust funds for street lighting
8 improvements and facilities need be established until budget line items for
9 such improvements are established by the BOARD for the unit.

10 **Section 26-23. IMPROVEMENTS.**

11 a) Road improvements as provided in this division include but are not
12 limited to such improvements as pavement, grassing, landscaping,
13 storm drainage facilities, traffic-control devices, driveways,
14 earthwork, and all engineering and administrative expenses in
15 connection with the project. The term "landscaping" includes the
16 installation and maintenance thereof pursuant to the county's
17 Landscaping Ordinance [appendix F, §500.35].

18 b) Street lighting improvements as provided in this division include, but
19 are not limited to, such improvements as poles, wires, lines, cables,
20 lamps, meter boxes; all other components of a street lighting
21 system; and all engineering and administrative expenses in
22 connection with the design, implementation, construction, as well as
23 maintenance expenses thereof, including electric utility company
24 charges for the supply of electric power to the improvements.

25 c) The BOARD may, by resolution, establish guidelines applicable to
26 the BOARD's determination of whether to proceed with any project
27 for which a petition is submitted.

28 d) In neighborhoods of special environmental concern subject to
29 problems that are capable of remediation by providing facilities for
30 water and/or sewer service or drainage, the BOARD may provide
31 any or all such improvements under the terms of this division. In

1 such circumstances, the provision of such services and
2 improvements shall be subject to all pertinent provisions of this
3 division and shall be treated in the same manner as road
4 improvements, street lighting and landscaping improvements for
5 special assessment percentage purposes and other purposes. The
6 term "drainage" as used herein includes clearing and dredging of
7 canals and other drainage facilities not under the jurisdiction of
8 other governmental entities.

9 e) In areas of special concern along thoroughfares, the BOARD may
10 provide for walls under the terms of this division. Improvements of
11 this type include but are not limited to all components of walls, and
12 all administrative and engineering expenses in connection with
13 design, implementation and construction, as well as advising
14 property owners and/or property owners associations of all
15 requirements, including but not limited to acquisition of easements
16 by property owners associations and maintenances responsibilities.

17 **Section 26-24. SPECIAL ASSESSMENTS.**

18 The BOARD may provide for payment of the costs of any improvement under
19 Section 26-23(a), (b), (c), (e) or (f) of this division by levying and collecting special
20 assessments on the abutting, adjoining, contiguous, or other property specially benefited
21 by the improvements provided herein. The percentage of the cost of improvements,
22 under Section 26-23 of this division to be paid by special assessment, shall be 100
23 percent of the total cost of the improvements, except as provided in Section 26-30.13 of
24 this division.

25 **Section 26-29. PERCENTAGE OF COST, FURTHER PROCEDURES.**

26 Upon completion of the preliminary cost estimate and compliance with the
27 requirements of Section 26-28 of this division, the improvements shall be brought to the
28 BOARD for a public hearing. No action is required by the BOARD prior to the public
29 hearing if the method of assessment is proposed to be the abutting footage method. The
30 proposed percentage of costs for a road improvement, street lighting improvements,
31 barrier walls, water and/or sewer is one hundred (100) percent. If the proposed method

1 of assessment is other than abutting footage, then prior to the public hearing the BOARD
2 shall determine the method of assessment to be utilized for the improvement to be repaid
3 to the trust fund by the property owners through special assessments upon the specially
4 benefitted property. However, the BOARD at any time, in its sole discretion, may reject
5 the petition or project for any further consideration.

6 **2. SAVINGS CLAUSE.**

7 Notwithstanding the provisions of this division herein amending Ordinance No. 94-
8 11 this division shall not affect or impair the processing and implementation of any
9 improvement project commenced prior to adoption of this Ordinance. Further, any money
10 available for use in the units merged under the above-referenced divisions shall be
11 available for use in and transferred to the unit and trust funds or created hereunder.

12

13 **3. PROVIDING FOR REPEAL OF LAWS IN CONFLICT.**

14 All local laws and ordinances in conflict with any provisions of this Ordinance are
15 hereby repealed to the extent of such conflict.

16 **4. SEVERABILITY.**

17 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is
18 for any reason held by a Court of competent jurisdiction to be unconstitutional,
19 inoperative, or void, such holding shall not affect the remainder of this Ordinance.

20 **5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

21 The provisions of this Ordinance shall become and be made a part of the Palm
22 Beach County Code. The sections of this Ordinance may be renumbered or relettered to
23 accomplish such, and the word ordinance may be changed to section, article, or other
24 appropriate word.

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1 **6. CAPTIONS.**

2 The captions, section headings, and section designations used in this Ordinance
3 are for convenience only and shall have no effect on the interpretation of the provisions
4 of this Ordinance.


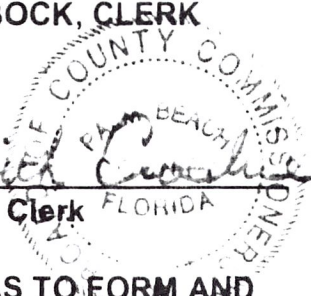
5 **7. EFFECTIVE DATE.**

6 The provisions of this Ordinance shall become effective upon filing with the
7 Department of State.

8 APPROVED and ADOPTED by the Board of County Commissioners of Palm
9 Beach County, Florida, on this the 16th day of December, 2008.


10 **SHARON R. BOCK, CLERK**

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

11
12
13
14 By: 
15 Deputy Clerk


By: 
John F. Koons, Chairman

17 **APPROVED AS TO FORM AND
18 LEGAL SUFFICIENCY**

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20
21 By: 
22 County Attorney

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25 **EFFECTIVE DATE:** Filed with the Department of State on the 22nd day of
26 December, 2008.

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STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk and County Clerk,
do hereby certify that the foregoing is a true and correct
copy of the original as filed in my office on December 16, 2008
dated at Palm Beach, Florida on 11/12/09
by: 